

Remarks

Claim 1 is amended for purposes of expediting prosecution. Independent claims 9, 10, and 18 are similarly amended. Dependent claims 3, 4, 12, 13, 20, and 21 are amended for consistency with the base claims. Claim 18 is further amended to clarify that the medium is a "storage" medium, with support found on page 16, lines 12-16 of the specification. Claims 1-25 are currently pending in the patent application. For the reasons set forth below, Applicant respectfully submits that all claims are patentable.

Interview Summary

In the telephone interview between Examiner Berman and the undersigned held on July 10, 2008, claims 1, 9, 10, and 18 were discussed. Agreement was reached that the proposed amendments, the changes of which are reflected in this amendment, were sufficient to overcome the rejections under 35 U.S.C. §112, second paragraph. The undersigned understood that the rejection of claims 1-9 under 35 U.S.C. §101 would be withdrawn. No agreement was reached in regards to the patentability of claims 9-25 under 35 U.S.C. §101.

35 U.S.C. §112, second paragraph

The rejection of claims 1-25 under 35 U.S.C. §112, second paragraph, as being indefinite is respectfully traversed because those skilled in the art would reasonably understand the meaning of the claim as originally filed. That is, that those skilled in the art would have recognized that the original recitation of "outputting the violations" relative to the code instances that violated a correctness rule. The rejection is moot, however, in view of the amendments to the claims and should be withdrawn.

35 U.S.C. §101

Claims 1-25 are understood to be directed to statutory subject matter of 35 U.S.C. §101, and the rejection is respectfully traversed. Based on the interview referenced above, the rejection of claims 1-8 will be withdrawn. The traversal of the rejections of claims 9-25 is explained below.

Independent claim 9 sets forth an apparatus, and the limitations are recited in means-plus-function form. The Examiner has not considered the structure disclosed in the specification corresponding to such language. As explained in MPEP 2181, "the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination." *In re Donaldson Co.*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). Thus, the Office Action does not establish a *prima facie* case that claim 9 is directed to non-statutory subject matter.

Independent claim 10 sets forth a system that includes a data processing arrangement and an analyzer hosted on the data processing arrangement. The analyzer is configured to perform certain steps for identifying errors in program code. The Office Action does not address the tangible limitations of the data processing system hosting the analyzer. Thus, the Office Action does not establish a *prima facie* case that claim 10 is directed to non-statutory subject matter.

Claim 18 sets forth an article of manufacture that includes an electronically readable storage medium configured with instructions for causing a processor to perform the recited steps. As explained in the MPEP 2106.01, "When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized." Section 2106.01(I) further explains, "a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035." Thus, the Office Action does not establish a *prima facie* case that claim 18 is directed to non-statutory subject matter.

The rejection of claims 1-25 under 35 U.S.C. §101 should be withdrawn because the Office Action does not establish that the claims as a whole are directed to non-statutory subject matter.

In view of the above discussion, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 259-2301.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'LeRoy D. Maunu', with a long horizontal flourish extending to the right.

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